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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/039,510	10/23/2001	Takashi Sato	0597/0J818	9068

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EXAMINER

REIFSNYDER, DAVID A

ART UNIT	PAPER NUMBER
1723	

DATE MAILED: 07/07/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Offic Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/039,510	SATO, TAKASHI
	<b>Examiner</b>	<b>Art Unit</b>
	David A Reifsnyder	1723

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) Responsive to communication(s) filed on 23 October 2001.

2a) This action is FINAL.                    2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) Claim(s) 1-5 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-5 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 23 October 2001 is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some \* c) None of:

1. Certified copies of the priority documents have been received.

2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

1) Notice of References Cited (PTO-892)

4) Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

5) Notice of Informal Patent Application (PTO-152)

3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ .

6) Other: \_\_\_\_\_

## DETAILED ACTION

### ***Specification***

The following is a quotation of 37 CFR 1.71(a):

- (a) The specification must include a written description of the invention or discovery and of the manner and process of making and using the same, and is required to be in such full, clear, concise, and exact terms as to enable any person skilled in the art or science to which the invention or discovery appertains, or with which it is most nearly connected, to make and use the same.

The specification is objected to under 37 CFR 1.71 (a) because the specification teaches water treatment section (11) but fails to clearly disclose what a Water Treatment Section comprises. For example, in the Brief Description of the Drawings when discussing Fig 2 the specification states: "Fig. 2 is an assembly perspective view of the water treatment sections constituting the liquid magnetic processing unit of the present invention". However, when looking at Fig . 2 there is not even a reference numeral (11). In some parts of the specification it appears that a water treatment section (11) comprises a plurality of magnet housing (12). For example, looking at Fig. 3 one would think that water treatment section (11) comprises a plurality of magnet housings (12). However, the Brief Description of Fig. 3 states "Fig 3 is a front view of water treatment **sections** inserted through a band constituting the liquid magnetic processing unit of the present invention. Not knowing what defines a water treatment section (11) makes it impossible to understand what the applicant wishes to claim. Depending on what the applicant intended the water treatment section (11) to comprise he may well have to correct his claims accordingly . Furthermore, at the present time it is not even possible to object to the drawings. Depending on what the applicant intends

the water treatment section (11) to comprise he may well have to correct his drawings, accordingly. Furthermore, the entire specification is replete with grammatical errors which makes the entire specification hard to understand.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-3 and 5 are rejected under 35 USC 112, 1<sup>st</sup> paragraph for the reasons given above in the objections under 37 CFR 1.71.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-3 and 5 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 1; the recitation of "plurality of magnet housing equipped to the band in an inserting manner, which house a plurality of magnets" is vague and indefinite as to whether each housing house a plurality of magnet or if all of the housings taken together house a plurality of magnet. Furthermore, claim 1 can not be understood be it is vague and indefinite as to what the applicant intends a water treatment section to be.

Regarding claim 2; the recitations of "the permanent magnets having differing polarity" and "the permanent magnets of the differing polarity" do not make sense as all permanent magnets have differing polarity (i.e. a north pole and a south pole) Furthermore, claim 1 can not be understood because it is vague and indefinite as to what the applicant intends a water treatment section to be.

Regarding claim 3; claim 3 can not be understood be it is vague and indefinite as to what the applicant intends a water treatment section to be.

Regarding claim 5; claim is vague and indefinite because the first part of claim 5 claims "comprising: a water treatment section" and later parts claim 5 claims "even numbers of said water treatment section". Furthermore, the recitation of "said water treatment sections" lacks antecedent basis. In addition, claim 5 can not be understood because it is vague and indefinite as to what the applicant intends a water treatment section to be.

Furthermore regarding claims 1-3 and 5; there are so many grammatical errors in claims 1-3 and 5 that is extremely difficult to understand those claims.

#### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-5 are rejected under 35 U.S.C. 102(b) as being anticipated by Carpenter who discloses a magnetic fluid treating apparatus comprising a plurality of magnet housings (16) surrounding a pipe, with a plastic case (18) surrounding the magnet housings (Figs. 1-3); each of the magnet housings comprises a plurality of magnets of reciprocating poles, and like poles of opposing magnets in opposing magnet housings face each other, (col. 3, line 66 to col. 4, line 12; Fig. 5).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1-3 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Okamoto or Kimpf in view of Carpenter or JP 10-180-262 A.

Regarding claims 1-3 and 5: Okamoto and Kimpf both disclose magnetic fluid treating apparatus having all of the elements which are claimed in claims 1-3 and 5 including casings which surround magnet housings; however, Okamoto and Kimpf both fail to disclose the material that their casings are made out of. Carpenter discloses a non-magnetic plastic casing surrounding magnet housings, while JP 10-180262 A discloses a non-magnetic stainless steel housing surrounding permanent magnets. It is considered that it would have been obvious to one having ordinary skill in the art at the time of the invention to have made the casings out of plastic or stainless steel as taught by Carpenter and JP 10-180262 A, respectively, because plastic and stainless steel do not rust. Furthermore, it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin, 125 USPQ 416.*

#### **Prior Art**

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Caiozza who discloses a filter cartridge magnetic belt comprising a plurality of magnetic blocks inserted into the belt, each magnetic block comprising a pair of cylindrical permanent magnets. Sato who is a US English language equivalent or JP 10-180262 A.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David A Reifsnyder whose telephone number is 1-703-308-0456. The examiner can normally be reached on M-F 9:00 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wanda M Walker can be reached on 1-703-308-0457. The fax phone numbers for the organization where this application or proceeding is assigned are 1-703-872-9310 for regular communications and 1-703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 1-703-308-3601.

*David A Reifsnyder*  
David A Reifsnyder  
Primary Examiner  
Art Unit 1723

DAR  
June 29, 2003